

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

TEMPLE CHIJINDU EZERIBE, } Case No. ED CV 23-02501-SP
Plaintiff, } **ORDER DISMISSING ACTION FOR**
v. } **LACK OF PROSECUTION**
ALEJANDRO MAYORKAS, et }
al., }
Defendants. })

Plaintiff Temple Chijindu Ezeribe filed a complaint to initiate this action on December 6, 2023, naming four federal officials as defendants: Alejandro Mayorkas, Ur M. Jaddou, Alanna O, and Irene Martin. [Doc. # 1.] Under Federal Rule of Civil Procedure 4(m), Plaintiff was required to serve each defendant with the summons and complaint within 90 days after the complaint's filing, that is, no later than March 5, 2024. In addition, because the named Defendants are officers or employees of the United States sued in their official capacity, plaintiff was required to effect service in compliance with Federal Rule of Civil Procedure 4(i).

The first deadline for service passed without Plaintiff filing any sort of proof of service of the summons and complaint. Accordingly, on March 13, 2024, the Court issued

1 an Order to Show Cause Why Case Should Not Be Dismissed for Failure to Effect Service
2 and Prosecute. [Doc. # 15.] The Court ordered plaintiff to show cause in writing by March
3 27, 2024 why the case should not be dismissed without prejudice for Plaintiff's failure to
4 prosecute and serve Defendants within the required time period. The Court further stated
5 that Plaintiff could discharge the Order to Show Cause by filing, not later than March 27,
6 2024, proof of service of the summons and complaint. The Court explicitly warned
7 Plaintiff that failure to respond by March 27 may result in dismissal.

8 Plaintiff responded to the March 13 Order to Show Cause on March 26, 2024, filing
9 an Opposition explaining that due to inexperience Plaintiff's counsel had difficulty
10 obtaining issuance of the summons and effecting service. [Doc. # 16.] In an April 5, 2024
11 minute order, the Court noted the summons was issued on January 16, 2024, and therefore
12 Plaintiff had then had more than two months to effect service. [Doc. # 18.] Nonetheless,
13 the Court granted Plaintiff an additional 30 days, to May 5, 2024, to effect service, and
14 ordered Plaintiff to file proof of service by May 13, 2024.

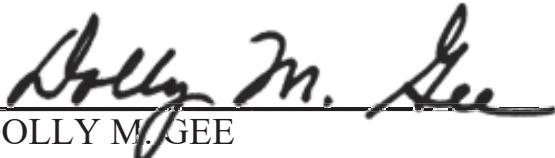
15 The second deadline for service passed without Plaintiff filing any sort of proof of
16 service of the summons and complaint or otherwise communicating with the Court.
17 Accordingly, on May 21, 2024, the Court issued a Second Order to Show Cause Why Case
18 Should Not Be Dismissed for Failure to Effect Service and Prosecute. [Doc. # 19.] The
19 Court ordered Plaintiff to show cause in writing by June 4, 2024 why the case should not
20 be dismissed without prejudice for Plaintiff's failure to prosecute and serve defendants
21 within the required time period. The Court further stated that Plaintiff could discharge the
22 Order to Show Cause by filing, not later than June 4, 2024, proof of service of the summons
23 and complaint. The Court again warned Plaintiff that failure to respond by June 4, 2024
24 may result in dismissal.

25 Several months have passed since the June 4 deadline, and Plaintiff has neither filed
26 proof of service nor responded in any way to the Second Order to Show Cause. Rule 4(m)
27 provides that if a defendant is not served within 90 days after the complaint is filed, the
28 Court "must dismiss the action without prejudice against that defendant or order that

1 service be made within a specified time," unless Plaintiff shows good cause to extend the
2 time for service. Fed. R. Civ. P. 4(m). The Court has already extended the time for service
3 to May 5, 2024, and then issued a Second Order to Show Cause to which Plaintiff had an
4 opportunity to respond. To date, Plaintiff has not responded to the extension of time to
5 effect service or to the Second Order to Show Cause in any fashion. As such, dismissal
6 without prejudice is warranted for failure to effect service and prosecute this action.

7 IT IS THEREFORE ORDERED that this action is dismissed without prejudice.
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10 DATED: November 7, 2024

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12 DOLLY M. GEE
13 CHIEF UNITED STATES DISTRICT JUDGE

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